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SENATE BILL 252

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MARY JANE M GARCIA

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING THAT A DELINQUENT CHILD  
ADJUDICATED FOR A SEX OFFENSE BE SUBJECT TO THE PROVISIONS OF  
THE SEX OFFENDER REGISTRATION ACT; PROVIDING PENALTIES; AMENDING  
SECTIONS OF THE SEX OFFENDER REGISTRATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-11A-1 NMSA 1978 (being Laws 1995,  
Chapter 106, Section 1) is amended to read:

"29-11A-1. SHORT TITLE. -- [~~This act~~] Chapter 29, Article  
11A NMSA 1978 may be cited as the "Sex Offender Registration  
Act". "

Section 2. Section 29-11A-2 NMSA 1978 (being Laws 1995,  
Chapter 106, Section 2) is amended to read:

"29-11A-2. FINDINGS--PURPOSE. --

A. The legislature finds that:

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1 (1) sex offenders pose a significant risk of  
2 recidivism; and

3 (2) the efforts of law enforcement agencies to  
4 protect their communities from sex offenders are impaired by the  
5 lack of information available concerning convicted sex offenders  
6 who live within the agencies' ~~[jurisdiction]~~ jurisdictions.

7 B. The purpose of the Sex Offender Registration Act  
8 is to assist law enforcement agencies' efforts to protect their  
9 communities by:

10 (1) requiring sex offenders to register with  
11 the county sheriff of the county in which the sex offender  
12 resides; and

13 (2) requiring the establishment of a central  
14 registry for sex offenders. "

15 Section 3. Section 29-11A-3 NMSA 1978 (being Laws 1995,  
16 Chapter 106, Section 3) is amended to read:

17 "29-11A-3. DEFINITIONS. --As used in the Sex Offender  
18 Registration Act:

19 A. "sex offender" means:

20 (1) a person convicted of a sex offense on or  
21 after July 1, 1995; ~~[or]~~

22 (2) a person who changes his residence to New  
23 Mexico, when that person has been convicted of a sex offense in  
24 another state on or after July 1, 1995; ~~[and]~~

25 (3) a delinquent child adjudicated for a sex

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1 offense on or after July 1, 1997; or

2 (4) a delinquent child who changes his  
3 residence to New Mexico, when that delinquent child has been  
4 adjudicated for a sex offense in another state on or after July  
5 1, 1997; and

6 B. "sex offense" means:

7 (1) criminal sexual penetration in the first,  
8 second, third or fourth degree, as provided in Section 30-9-11  
9 NMSA 1978;

10 (2) criminal sexual contact in the fourth  
11 degree, as provided in Section 30-9-12 NMSA 1978;

12 (3) criminal sexual contact of a minor in the  
13 third or fourth degree, as provided in Section 30-9-13 NMSA  
14 1978;

15 (4) sexual exploitation of children, as  
16 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;  
17 or

18 (5) sexual exploitation of children by  
19 prostitution, as provided in Section 30-6A-4 NMSA 1978. "

20 Section 4. Section 29-11A-4 NMSA 1978 (being Laws 1995,  
21 Chapter 106, Section 4) is amended to read:

22 "29-11A-4. REGISTRATION OF SEX OFFENDERS-- INFORMATION  
23 REQUIRED-- CRIMINAL PENALTY FOR NONCOMPLIANCE. --

24 A. A sex offender residing in this state shall  
25 register with the county sheriff for the county in which the

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1 sex offender resides.

2 B. A sex offender who is a current resident of New  
3 Mexico shall register with the county sheriff no later than  
4 thirty days after being released from the custody of the  
5 corrections department or the children, youth and families  
6 department or being placed on probation or parole. A sex  
7 offender who changes his residence to New Mexico shall register  
8 with the county sheriff no later than forty-five days after  
9 establishing residence in this state. When a sex offender  
10 registers with the county sheriff, he shall provide the  
11 following information:

12 (1) his legal name and any other names or  
13 aliases that [~~the sex offender~~] he is using or has used;

14 (2) his date of birth;

15 (3) his social security number;

16 (4) his current address;

17 (5) his place of employment;

18 (6) the sex offense for which he was  
19 convicted or adjudicated delinquent; and

20 (7) the date and place of his sex offense  
21 conviction or adjudication.

22 C. When a sex offender registers with a county  
23 sheriff, the sheriff shall obtain:

24 (1) a photograph of the sex offender and a  
25 complete set of the sex offender's fingerprints; and

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1 (2) a description of any tattoos, scars or  
2 other distinguishing features on the sex offender's body that  
3 would assist in identifying the sex offender.

4 D. When a sex offender who is registered changes  
5 his residence within the same county, the sex offender shall  
6 send written notice of his change of address to the county  
7 sheriff no later than ten days after establishing his new  
8 residence.

9 E. When a sex offender who is registered changes  
10 his residence to a new county in New Mexico, the sex offender  
11 shall register with the county sheriff of the new county no  
12 later than ten days after establishing his new residence. The  
13 sex offender shall also send written notice of the change in  
14 residence to the county sheriff with whom he last registered no  
15 later than ten days after establishing his new residence.

16 F. If the sex offender is a delinquent child, as  
17 provided in Paragraph (3) or (4) of Subsection A of Section  
18 29-11A-3 NMSA 1978, the sex offender's guardian or custodian  
19 shall be responsible for complying with the registration  
20 requirements set forth in the Sex Offender Registration Act,  
21 until the sex offender reaches eighteen years of age. When the  
22 sex offender reaches eighteen years of age, he shall be  
23 responsible for complying with the registration requirements  
24 set forth in the Sex Offender Registration Act.

25 [~~F.~~] G. A sex offender or a sex offender's guardian

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1 or custodian who willfully fails to comply with the  
2 registration requirements set forth in this section is guilty  
3 of a misdemeanor and shall be punished by imprisonment for a  
4 definite term less than one year or a fine of not more than one  
5 thousand dollars (\$1,000) or both.

6 [G.] H. A sex offender or a sex offender's guardian  
7 or custodian who provides false information when complying with  
8 the registration requirements set forth in this section is  
9 guilty of a misdemeanor and shall be punished by imprisonment  
10 for a definite term less than one year or a fine of not more  
11 than one thousand dollars (\$1,000) or both. "

12 Section 5. Section 29-11A-5 NMSA 1978 (being Laws 1995,  
13 Chapter 106, Section 5) is amended to read:

14 "29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--  
15 ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--EXCHANGE OF  
16 REGISTRATION INFORMATION WITH OTHER STATES--RULES AND  
17 REGULATIONS. --

18 A. A county sheriff may maintain a local registry  
19 of sex offenders in his jurisdiction required to register  
20 pursuant to the provisions of the Sex Offender Registration  
21 Act.

22 B. The county sheriff shall forward registration  
23 information obtained from sex offenders to the department of  
24 public safety. The registration information shall be forwarded  
25 by the county sheriff no later than ten working days after the

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1 information is obtained from a sex offender.

2 C. The department of public safety shall maintain a  
3 central registry of sex offenders required to register pursuant  
4 to the provisions of the Sex Offender Registration Act. The  
5 department may enter into interstate compact agreements  
6 providing for the exchange of information regarding sex  
7 offenders, provided that the other state does not permit  
8 dissemination of information regarding sex offenders to any  
9 persons or entities other than law enforcement agencies.

10 D. The department of public safety shall retain  
11 registration information regarding sex offenders convicted or  
12 adjudicated delinquent for the following sex offenses for a  
13 period of twenty years following the sex offender's conviction,  
14 release from prison or release from probation or parole,  
15 whichever occurs later:

16 (1) criminal sexual penetration in the first  
17 or second degree, as provided in Section 30-9-11 NMSA 1978;

18 (2) criminal sexual contact of a minor in the  
19 third degree, as provided in Section 30-9-13 NMSA 1978; or

20 (3) sexual exploitation of children, as  
21 provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978.

22 E. The department of public safety shall retain  
23 registration information regarding sex offenders convicted or  
24 adjudicated delinquent for the following offenses for a period  
25 of ten years following the sex offender's conviction, release

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1 from prison or release from probation or parole, whichever  
2 occurs later:

3 (1) criminal sexual penetration in the third  
4 or fourth degree, as provided in Section 30-9-11 NMSA 1978;

5 (2) criminal sexual contact in the fourth  
6 degree, as provided in Section 30-9-12 NMSA 1978;

7 (3) criminal sexual contact of a minor in the  
8 fourth degree, as provided in Section 30-9-13 NMSA 1978; or

9 (4) sexual exploitation of children by  
10 prostitution, as provided in Section 30-6A-4 NMSA 1978.

11 F. The department of public safety shall adopt  
12 rules and regulations necessary to carry out the provisions of  
13 the Sex Offender Registration Act. "

14 Section 6. Section 29-11A-7 NMSA 1978 (being Laws 1995,  
15 Chapter 106, Section 7) is amended to read:

16 "29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO  
17 REGISTER. --

18 A. A court shall provide a sex offender adjudicated  
19 guilty or delinquent in that court with written notice of his  
20 duty to register pursuant to the provisions of the Sex Offender  
21 Registration Act. [~~The written notice shall be included in  
22 judgment and sentence forms provided to the sex offender.~~]

23 B. The corrections department or the children,  
24 youth and families department, at the time of release of a sex  
25 offender in the department's custody, shall provide written

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1 notification to the sex offender or the sex offender's guardian  
2 or custodian of his duty to register pursuant to the provisions  
3 of the Sex Offender Registration Act. The corrections  
4 department or the children, youth and families department shall  
5 also provide written notification regarding a sex offender's  
6 release to the sheriff of the county in which the sex offender  
7 is released.

8 C. The department of public safety, at the time it  
9 is notified by officials from another state that a sex offender  
10 will be establishing residence in New Mexico, shall provide  
11 written notification to the sex offender or the sex offender's  
12 guardian or custodian of his duty to register pursuant to the  
13 provisions of the Sex Offender Registration Act. "

14 Section 7. EFFECTIVE DATE. --The effective date of the  
15 provisions of this act is July 1, 1997.